

Executive Summary – Enforcement Matter – Case No. 51428

City of San Marcos

RN100838648

Docket No. 2015-1605-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of San Marcos WWTP, 720 River Road, San Marcos, Hays County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 18, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,000

Amount Deferred for Expedited Settlement: \$1,800

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$7,200

Name of SEP: Texas State University (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 21, 2015

Date(s) of NOE(s): September 23, 2015

Executive Summary – Enforcement Matter – Case No. 51428

City of San Marcos

RN100838648

Docket No. 2015-1605-MWD-E

Violation Information

Failed to comply with permitted effluent limits for ammonia nitrogen, total suspended solids, and *Escherichia coli* [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010273002, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to, within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010273002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ronica Rodriguez, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2601; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Respondent: The Honorable Daniel Guerrero, Mayor, City of San Marcos, 630 East Hopkins Street, San Marcos, Texas 78666

Respondent's Attorney: N/A

Attachment A
Docket Number: 2015-1605-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of San Marcos
Penalty Amount:	Seven Thousand Two Hundred Dollars (\$7,200)
SEP Offset Amount:	Seven Thousand Two Hundred Dollars (\$7,200)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas State University – San Marcos
Project Name:	<i>Water Quality Monitoring of River Basins and Edwards Aquifer Recharge Zone</i>
Location of SEP:	Colorado River Basin; Edwards Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas State University – San Marcos** for the *Water Quality Monitoring of River Basins and Edwards Aquifer Recharge Zone* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used pay for sampling equipment, including the portable stormwater sampler, Gore bags, and calibration standards kits. The Third-Party Administrator shall also use the SEP Offset Amount for travel expenses up to \$.55 per mile for traveling to the wells and to collect data during storm events. The SEP Offset Amount will also be used for lab analyses of Gore bag samples and field parameters and to pay a portion of the Third-Party’s personnel’s salary for time spent collecting samples and calibrating instruments. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

City of San Marcos
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The continuation of the Trimmier, Witte, and La Coste Stations and the implementation of two new stations will provide valuable data for assessing water quality. Continuous monitoring of these sites will provide the public with knowledge of basic water quality in their watershed. These data will provide useful information in determining baseline conditions, long term trends, and real-time water quality for the area.

The Edwards Aquifer monitoring sites will collect data to measure the water quality of the sensitive area before, during, and after construction of the Paso Robles development and associated golf course. The Project will also monitor the surface runoff following significant rain events to determine the effects of construction activities, the use of effluent, and the application of insecticides and herbicides in the community and golf course. Further, these monitoring sites will identify any contamination of this sensitive recharge area of the Edwards Aquifer Recharge Zone and help prevent possible further introduction of contaminants.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas State University – San Marcos SEP** and shall mail the contribution with a copy of the Agreed Order to:

Dr. Glenn Longley
Texas State University - San Marcos
601 University Drive, JCK 420
San Marcos, Texas 78666

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	5-Oct-2015	Screening	14-Oct-2015	EPA Due	5-Dec-2016
	PCW	23-Oct-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	City of San Marcos
Reg. Ent. Ref. No.	RN100838648
Facility/Site Region	11-Austin
Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	51428	No. of Violations	1
Docket No.	2015-1605-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Ronica Rodriguez
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$7,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 20.0% Adjustment **Subtotals 2, 3, & 7** \$1,500

Notes Enhancement for four months of self-reported effluent violations.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$875
Estimated Cost of Compliance \$10,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$9,000

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$9,000

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$9,000

DEFERRAL 20.0% Reduction Adjustment -\$1,800

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$7,200

Screening Date 14-Oct-2015

Docket No. 2015-1605-MWD-E

PCW

Respondent City of San Marcos

Policy Revision 4 (April 2014)

Case ID No. 51428

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100838648

Media [Statute] Water Quality

Enf. Coordinator Ronica Rodriguez

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for four months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 14-Oct-2015

Docket No. 2015-1605-MWD-E

PCW

Respondent City of San Marcos

Policy Revision 4 (April 2014)

Case ID No. 51428

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100838648

Media [Statute] Water Quality

Enf. Coordinator Ronica Rodriguez

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010273002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on August 21, 2015, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was utilized to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and Escherichia coli were also considered. The amounts discharged at the time of the violation were insignificant and did not exceed levels protective of human health or the environment.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

122 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Two quarterly events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$875

Violation Final Penalty Total \$9,000

This violation Final Assessed Penalty (adjusted for limits) \$9,000

Economic Benefit Worksheet

Respondent City of San Marcos
Case ID No. 51428
Reg. Ent. Reference No. RN100838648
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	30-Nov-2014	30-Aug-2016	1.75	\$875	n/a	\$875

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$875

City of San Marcos
TPDES Permit No. WQ0010273002
Docket No. 2015-1605-MWD-E

	Effluent Violation Table			
Monitoring Period	Permitted Effluent Limits			
	TSS Daily Average Concentration Limit = 5 mg/L	TSS Daily Maximum Concentration Limit = 20 mg/L	Ammonia Nitrogen Daily Maximum Concentration Limit = 10 mg/L	<i>E. coli</i> Daily Maximum Limit = 399 CFU/100 ml
November 2014	c	c	c	914
December 2014	c	c	c	524.7
January 2015	5.3	57	10.1	c
June 2015	5.4	56	c	c

TSS = Total suspended solids

E. coli = *Escherichia coli*

mg/L = milligrams per liter

CFU/100 ml = colony forming units per 100 milliliters

c = compliant



Compliance History Report

PENDING Compliance History Report for CN600521272, RN100838648, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN600521272, City of San Marcos

Classification: SATISFACTORY

Rating: 2.42

Regulated Entity: RN100838648, CITY OF SAN MARCOS WWTP

Classification: SATISFACTORY

Rating: 0.75

Complexity Points: 10

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: Located at 720 River Road in San Marcos, Hays County, Texas.

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

WASTEWATER AUTHORIZATION R10273002

WASTEWATER PERMIT WQ0010273002

WASTEWATER EPA ID TX0047945

PRETREATMENT EPA ID TX0047945000

PRETREATMENT PERMIT WQ0010273002

STORMWATER PERMIT TXR05BA11

SLUDGE AUTHORIZATION 720023

SLUDGE AUTHORIZATION 720015

Compliance History Period: September 01, 2010 to August 31, 2015

Rating Year: 2015

Rating Date: 09/01/2015

Date Compliance History Report Prepared: October 14, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 14, 2010 to October 14, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Ronica Rodriguez

Phone: (512) 239-2601

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	November 18, 2010	(882066)
Item 2	November 19, 2010	(902828)
Item 3	December 14, 2010	(888527)
Item 4	December 15, 2010	(896877)
Item 5	February 16, 2011	(909672)
Item 6	March 15, 2011	(916893)

Item 7	April 18, 2011	(953236)
Item 8	August 09, 2011	(959876)
Item 9	August 29, 2011	(965917)
Item 10	September 14, 2011	(971959)
Item 11	October 18, 2011	(978124)
Item 12	November 16, 2011	(984895)
Item 13	December 20, 2011	(991183)
Item 14	January 04, 2012	(998549)
Item 15	February 16, 2012	(974733)
Item 16	March 02, 2012	(1004080)
Item 17	March 19, 2012	(1010645)
Item 18	April 16, 2012	(1017020)
Item 19	May 17, 2012	(1007384)
Item 20	June 13, 2012	(1024783)
Item 21	June 20, 2012	(1014442)
Item 22	June 29, 2012	(1032141)
Item 23	July 18, 2012	(1038569)
Item 24	August 17, 2012	(1047435)
Item 25	September 14, 2012	(1063783)
Item 26	October 18, 2012	(1063784)
Item 27	November 20, 2012	(1063785)
Item 28	December 21, 2012	(1080235)
Item 29	February 19, 2013	(1089908)
Item 30	March 20, 2013	(1080236)
Item 31	March 28, 2013	(1096303)
Item 32	April 18, 2013	(1107247)
Item 33	May 20, 2013	(1110912)
Item 34	June 17, 2013	(1117783)
Item 35	June 26, 2013	(1102306)
Item 36	July 17, 2013	(1125572)
Item 37	August 21, 2013	(1147749)
Item 38	December 23, 2013	(1153803)
Item 39	February 03, 2014	(1161132)
Item 40	February 18, 2014	(1167788)
Item 41	March 17, 2014	(1174914)
Item 42	April 07, 2014	(1181114)
Item 43	May 16, 2014	(1188016)
Item 44	June 11, 2014	(1199544)
Item 45	August 21, 2014	(1206403)
Item 46	September 15, 2014	(1193664)
Item 47	September 19, 2014	(1212813)
Item 48	October 16, 2014	(1219067)
Item 49	November 17, 2014	(1215107)
Item 50	January 21, 2015	(1256109)
Item 51	February 26, 2015	(1249224)
Item 52	March 16, 2015	(1262827)
Item 53	May 14, 2015	(1269993)
Item 54	June 16, 2015	(1283702)
Item 55	August 26, 2015	

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 11/30/2014 (1224849)	CN600521272	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
2	Date: 12/31/2014 (1231568)	CN600521272	
	Self Report? YES	Classification: Moderate	

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

3 Date: 01/31/2015 (1242870) CN600521272
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

4 Date: 06/30/2015 (1277524) CN600521272
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF SAN MARCOS
RN100838648**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2015-1605-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of San Marcos ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at 720 River Road in San Marcos, Hays County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 28, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Thousand Dollars (\$9,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Eight Hundred Dollars (\$1,800) is deferred contingent upon the

Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Seven Thousand Two Hundred Dollars (\$7,200) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010273002, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on August 21, 2015, and as shown in the violation table below:

	Effluent Violation Table			
Monitoring Period	Permitted Effluent Limits			
	TSS Daily Average Concentration Limit = 5 mg/L	TSS Daily Maximum Concentration Limit = 20 mg/L	Ammonia Nitrogen Daily Maximum Concentration Limit = 10 mg/L	<i>E. coli</i> Daily Maximum Limit = 399 CFU/100 ml
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January 2015	5.3	57	10.1	c
June 2015	5.4	56	c	c

TSS = Total suspended solids

E. coli = *Escherichia coli*

mg/L = milligrams per liter

CFU/100 ml = colony forming units per 100 milliliters

c = compliant

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of San Marcos, Docket No. 2015-1605-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Seven Thousand Two Hundred Dollars (\$7,200) of the assessed administrative penalty amount shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010273002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, notarized by a State of Texas Notary Public, and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



8/8/16

For the Executive Director

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date

Daniel Quezada

2.11.16

Name (Printed or typed)
Authorized Representative of
City of San Marcos

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2015-1605-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of San Marcos
Penalty Amount:	Seven Thousand Two Hundred Dollars (\$7,200)
SEP Offset Amount:	Seven Thousand Two Hundred Dollars (\$7,200)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas State University – San Marcos
Project Name:	<i>Water Quality Monitoring of River Basins and Edwards Aquifer Recharge Zone</i>
Location of SEP:	Colorado River Basin; Edwards Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas State University – San Marcos** for the *Water Quality Monitoring of River Basins and Edwards Aquifer Recharge Zone* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used pay for sampling equipment, including the portable stormwater sampler, Gore bags, and calibration standards kits. The Third-Party Administrator shall also use the SEP Offset Amount for travel expenses up to \$.55 per mile for traveling to the wells and to collect data during storm events. The SEP Offset Amount will also be used for lab analyses of Gore bag samples and field parameters and to pay a portion of the Third-Party’s personnel’s salary for time spent collecting samples and calibrating instruments. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

City of San Marcos
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The continuation of the Trimmier, Witte, and La Coste Stations and the implementation of two new stations will provide valuable data for assessing water quality. Continuous monitoring of these sites will provide the public with knowledge of basic water quality in their watershed. These data will provide useful information in determining baseline conditions, long term trends, and real-time water quality for the area.

The Edwards Aquifer monitoring sites will collect data to measure the water quality of the sensitive area before, during, and after construction of the Paso Robles development and associated golf course. The Project will also monitor the surface runoff following significant rain events to determine the effects of construction activities, the use of effluent, and the application of insecticides and herbicides in the community and golf course. Further, these monitoring sites will identify any contamination of this sensitive recharge area of the Edwards Aquifer Recharge Zone and help prevent possible further introduction of contaminants.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas State University – San Marcos SEP** and shall mail the contribution with a copy of the Agreed Order to:

Dr. Glenn Longley
Texas State University - San Marcos
601 University Drive, JCK 420
San Marcos, Texas 78666

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.